

1 Thomas H. Vidal (State Bar No. 204432)
2 *tvidal@pryorcashman.com*
3 PRYOR CASHMAN LLP
4 1901 Avenue of the Stars, Suite 900
5 Los Angeles, California 90067
6 (310) 683-6900

7 Brad D. Rose (admitted *pro hac vice*)
8 *brose@pryorcashman.com*
9 PRYOR CASHMAN LLP
10 7 Times Square
11 New York, NY 10036
12 (212) 421-4100
13 *Attorneys For Defendant-Intervenor*
14 JACQUES MORET INC.
15 *Additional Counsel Listed on Next Page*

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 WESTERN DIVISION

15 LULULEMON ATHLETICA
16 CANADA INC. AND LULULEMON
17 USA, INC.,

18 Plaintiffs,

19 v.

20 COSTCO WHOLESALE
21 CORPORATION,

22 Defendant,

23 and

24 JACQUES MORET INC.,

25 Defendant-Intervenor.
26
27
28

Case No. 2:25-cv-05864-FLA-AJR

**INTERVENOR-DEFENDANT
JACQUES MORET INC'S
RESPONSE TO PLAINTIFFS'
NOTICE OF NON-OPPOSITION**

1 Matthew Barkan (admitted *pro hac vice*)
2 *mbarkan@pryorcashman.com*
3 Jeffrey L. Snow (admitted *pro hac vice*)
4 *jsnow@pryorcashman.com*
5 Alexander White (admitted *pro hac vice*)
6 *awhite@pryorcashman.com*
7 Rachel Kaplowitz (*pro hac vice* forthcoming)
8 *rkaplowitz@pryorcashman.com*
9 PRYOR CASHMAN LLP
10 7 TIMES SQUARE
11 New York, NY 10036
12 (212) 421-4100
13 *Attorneys For Defendant-Intervenor*
14 JACQUES MORET INC.
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Intervenor-Defendant Jacques Moret Inc. (“Moret”) hereby submits this brief Response to the Notice of Non-Opposition to Moret’s Motion for Leave to File Second Amended Answer, Affirmative Defenses, and Counterclaims (Dkt. No. 65) filed by Plaintiffs.

In their Notice of Non-Opposition, Plaintiffs admit that Moret identified the prior art that forms the basis of Moret’s proposed amended pleading, including affirmative defenses and counterclaims. Plaintiffs’ assertion that they did not have enough detail about and did not understand the amended pleading that Moret intended to file, after counsel for the parties met and conferred on Moret’s motion, is incredulous. Plaintiffs have no basis to claim that they could not understand how their own prior art garment – which Plaintiffs failed to disclose to the Patent Office during prosecution – rendered their asserted design patents for such a garment both invalid based on prior art and unenforceable due to inequitable conduct.

In any event, Plaintiffs have now had Moret’s proposed amended pleading for five weeks. By failing to oppose Moret’s motion for leave to file its amended pleading, Plaintiffs acknowledge that Moret’s proposed amended pleading meets the pleadings standards of the Federal Rules of Civil Procedure and should not be heard subsequently to assert otherwise.

Respectfully submitted,

Dated: December 24, 2025

PRYOR CASHMAN LLP

By: /s/ Thomas H. Vidal

Thomas H. Vidal

Brad D. Rose

Matthew Barkan

Jeffrey L. Snow

Alexander White

Rachel Kaplowitz

Attorneys for Defendant-Intervenor,
JACQUES MORET INC.

CERTIFICATE OF SERVICE

I certify that on December 24, 2025, I electronically filed a copy of the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of the electronic filing to the following:

MORGAN, LEWIS & BOCKIUS LLP

Ali S. Razai, Bar No. 246,922

ali.razai@morganlewis.com

Brandon G. Smith, Bar No. 307,676

brandon.g.smith@morganlewis.com

600 Anton Boulevard, Suite 1800

Costa Mesa, CA 92626-7653

Tel: 714.830.0600

Fax: 714.830.0700

Brian P. O'Donnell

brian.odonnell@morganlewis.com

110 N. Wacker Drive, Suite 2800

Chicago, IL 60606-1511

Tel: 312.324.1000

Fax: 312.324.1001

John Hendershott

jack.hendershott@morganlewis.com

101 Park Avenue

New York, NY 10178-0060

Tel: 212.309.6000

Fax: 212.309.6001

Attorneys for Plaintiffs

LULULEMON ATHLETICA CANADA

INC. AND LULULEMON USA, INC.

DTO LAW

William Delgado (SBN 222666)

wdelgado@dtolaw.com

Ellen Y. Yang (SBN 223143)

eyang@dtolaw.com

Nicole G. Malick (SBN 335754)

nmalick@dtolaw.com

915 Wilshire Boulevard, Suite 1950

Los Angeles, California 90017

Telephone: (213) 334-6999

Facsimile: (213) 335-7802

Sudip Kundu (*pro hac vice*)

skundu@dtolaw.com

307 5th Avenue, 12th Floor

New York, NY 10016

Telephone: (646) 955-5400

Facsimile: (213) 355-7802

Attorneys for Defendant

COSTCO WHOLESALE

CORPORATION

By: /s/ Thomas H. Vidal

Thomas H. Vidal